

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of SKYLER SHOOP, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

JENNIFER L. SHOOP,

Respondent-Appellant,

and

LARRY A. SHOOP,

Respondent.

UNPUBLISHED

October 23, 2007

No. 277708

Barry Circuit Court

Family Division

LC No. 06-007219-NA

In the Matter of SKYLER SHOOP, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

LARRY A. SHOOP,

Respondent-Appellant,

and

JENNIFER L. SHOOP,

Respondent.

No. 277709

Barry Circuit Court

Family Division

LC No. 06-007219-NA

Before: Hoekstra, P.J., and Sawyer and Murray, JJ.

PER CURIAM.

In these consolidated appeals, respondents appeal as of right the trial court's order terminating their parental rights to the minor child under MCL 712A.19b(3)(b) (parent caused or failed to prevent physical injury or abuse), (c)(i) (conditions that led to adjudication continue to exist), and (j) (reasonable likelihood of harm if the child is returned). We affirm.

The child was removed from respondents' care at approximately four months of age on suspicion of abuse by her father, respondent Larry Shoop. At the outset of the ensuing year of services respondents' progress with the treatment plan to which they had agreed was slow. It is not disputed, however, that by the time of the termination hearing respondents had completed many of the requirements of the parent-agency agreement, including counseling and anger management training. Respondents had also acquired suitable housing and both the tools and means to support themselves. Citing their progress in these areas and compliance with the parent-agency agreement, respondents argue on appeal that the trial court erred in concluding that they failed to benefit from the services provided to them and that a statutory basis to support termination, therefore, existed.

To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination set forth in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re Jackson*, 199 Mich App 22, 25; 501 NW2d 182 (1993). "Once a ground for termination is established, the court must issue an order terminating parental rights unless there exists clear evidence, on the whole record, that termination is not in the child's best interests." *In re Trejo Minors*, 462 Mich 341, 354; 612 NW2d 407 (2000); see also MCL 712A.19b(5). We review for clear error a trial court's findings regarding an order terminating parental rights, giving deference to the trial court's superior opportunity to determine the weight and credibility of witnesses who appear before it. MCR 3.977(J); see also *In re JK*, 468 Mich 202, 209; 661 NW2d 216 (2003). Upon such review, we find no basis from which to conclude that the trial court erred in finding that respondents failed to benefit from services and that this failure supported termination of their parental rights under MCL 712A.19b(3)(b), (c)(i), and (j).

Although compliance with a parent-agency agreement constitutes evidence of a parent's ability to provide proper care and custody, *In re JK*, *supra* at 214, an inherent and necessary part of the treatment plan in a child protection proceeding is that the parent benefit from services, *In re Gazella*, 264 Mich App 668, 677; 692 NW2d 708 (2005). Contrary to respondents' arguments, the trial court did not find that they wholly failed to benefit from services. Indeed, the trial court expressly concluded that progress had been made in the areas of respondents' finances, housing, and overall stability. The trial court's concern lie in its perceived failure of both respondents to acknowledge the cause of their child's injuries—a perception supported by clear and convincing evidence presented at the termination hearing. Petitioner's medical expert, Dr. Debra Sims, M.D., testified that respondents' various explanations regarding how the child was injured were simply not consistent with the injuries suffered by the child. Rather, Sims testified, the injuries were consistent with an object, such as a hand, being applied to the child's face and cheek with an "amount of force over and above" that used in routine child care. The state police trooper who investigated the matter similarly testified that, in his experience, the injuries were consistent with a hand being placed over the child's mouth and that the child's

mother, respondent Jennifer Shoop, had indicated to him that she did not report the injuries because she did not want to make things worse between her and Larry. Respondents' psychologist and counselor also indicated that respondents' failure to acknowledge the true cause of the injury hampered any beneficial participation in services, a sentiment echoed by the child's foster care worker. Given this evidence, the trial court did not clearly err in finding that respondents failed to benefit from services in a manner tending to rectify the conditions that lead to adjudication, MCL 712A.19b(3)(b), or rendering it reasonably likely that the child would be harmed if returned to their care, MCL 712A.19b(j). While respondents both indicated at trial that they took full responsibility for the child having been injured, the evidence clearly and convincingly showed that neither was willing to acknowledge the true source of the child's injuries, and that this unwillingness supported termination of their parental rights.

Further, while we agree that there did not appear to be any serious concern that Jennifer was directly involved the child's abuse, we are not persuaded that this lack of concern precluded termination of her parental rights. Again, the focus of the trial court's decision was its perception that respondents' failure to acknowledge the circumstances leading to the child's injuries hampered their "ability to protect the child from the other parent." In addition to the evidence already discussed as supporting this finding, there was evidence that Jennifer recanted or made excuses for Larry's verbal and physical abuses, and returned with the child to live with Larry despite his violent tendencies and instruction from petitioner that this would result in removal of the child from her care. It was not disputed that the child's injuries were caused by Larry's actions, MCL 712A.19b(c)(i), and the evidence supported that Jennifer failed to ensure that the child would be protected from him in the future.

The trial court also did not clearly err when it found no evidence that termination of respondents' parental rights would not be in the children's best interests. *In re Trejo Minors*, *supra* at 353-354. Respondent Larry Shoop argues that given the improvements demonstrated by respondents by the time of the hearing, it was in the child's best interests to allow respondents additional time to demonstrate that reunification was proper. In support of this argument, he asserts that it is generally in a child's best interests to be reunited with his or her natural parents. However, as found by the trial court, the child's need for permanence was also relevant. See *In re McIntyre*, 192 Mich App 47, 52; 480 NW2d 293 (1991). Further, respondents had been given ample time and opportunity to acknowledge and accept the circumstances of the child's injuries which, as already discussed, the evidence clearly and convincingly demonstrated was essential to a safe reunification of the family. However, it had been more than a year since the child had been placed into care, and it is not disputed that respondents' progress toward reunification was only recently begun. The trial court did not err when it held that termination was not clearly against the child's best interests and terminated respondents' parental rights.

Affirmed.

/s/ Joel P. Hoekstra
/s/ David H. Sawyer
/s/ Christopher M. Murray